IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 952 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HARPALSINH NATWARSINH JHALA - Appellant(s)
Versus
THE STATE OF GUJARAT - Opponent(s)

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Appearance :
MR BM MANGUKIYA for Appellant(s) : 1,MR AD SHAH for Appellant(s) : 1,
MR AD OZA PUBLIC PROSECUTOR for Opponent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH
and
HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 15/09/2005
ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE M.S.SHAH)

This appeal is directed against the order dated 5th May 2005 of the learned Special Judge, POTA in so far as the following, amongst other, conditions were imposed while granting bail pending trial to the appellant in POTA Case No.2 of 2005.

(i) Applicant shall not leave India or city of Ahmedabad without prior permission of the Court.

(ii)The applicant shall not move to the Eastern part of the city of Ahmedabad, across Sabarmati river except for attending this case on the adjourned dates.

2. The above conditions were last modified by our order dated 24.8.2005 as under:-

"The applicant shall not leave India. The applicant shall not leave the State of Gujarat without prior permission of the Special Court, POTA, Ahmedabad.

As far as the movements within the State of Gujarat are concerned, the applicant shall not leave the city of Ahmedabad without first giving advance intimation in writing to the Investigating Officer Mr GS Singhal, Assistant Commissioner of Police, Ahmedabad City or to his office giving the following particulars:-

(i) The date of proceeding outstation;

(ii)The date of return journey;

(iii)The purpose of leaving Ahmedabad with details about the Court and case number and the name of the litigant.

(iv)In case the applicant wants to leave Ahmedabad and visit any relative in the State of Gujarat, the applicant shall give name, address and telephone numbers of the relative/s."

3. Having heard Mr AD Shah, learned counsel for the appellant and Mr AD Oza, learned Public Prosecutor, we are of the view that with passage of time the rigor of these conditions is required to be relaxed. Accordingly, the following modification is made to the conditions imposed by the learned trial Judge in the order dated 5.5.2005.

(i) The applicant-appellant shall not leave India without prior permission of the Special Court, POTA, Ahmedabad.

(ii)Condition No.2 is deleted.

4. It is clarified that the aforesaid modification/deletion is until further orders and it will be open to the State to move this Court for suitable modification or imposing any other conditions during pendency of Criminal Appeal No.1063 of 2005.

5. In view of the above, nothing further survives in Criminal Appeal No.952 of 2005 which is accordingly disposed of.

Direct service is permitted.

(M.S. SHAH, J.) (D.H. WAGHELA, J.)

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